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 8

THE HONORABLE MAXINE M. CHESNEY

9 *Attorneys for Federal Defendants*

10 UNITED STATES DISTRICT COURT  
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 12 SAN FRANCISCO DIVISION

13 ENVIRONMENTAL PROTECTION )  
 14 INFORMATION CENTER, )

15 Plaintiff, )

16 v. )

17 JERRY AYERS, STANFORD LEHR, CHARLTON )  
 18 H. BONHAM, PAT OVERTON, DANIEL ASHE, )  
 19 JEFF UNDERWOOD, and U.S. FISH AND )  
 WILDLIFE SERVICE, )

20 Defendants. )

) Case No. 3:13-cv-0656-MMC

) **PLAINTIFF’S AND FEDERAL**  
 ) **DEFENDANTS’ STIPULATION TO**  
 ) **AMEND STAY AND [PROPOSED]**  
 ) **ORDER APPROVING**  
 ) STIPULATION TO AMEND STAY;  
 ) DIRECTING PARTIES TO FILE  
 ) JOINT CASE MANAGEMENT  
 ) STATEMENT

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 27 )  
 28 STIPULATION TO AMEND STAY  
 AND [PROPOSED] ORDER

Case No. 3:13-cv-0656-MMC

1 **STIPULATION**

2 Pursuant to Civil Local Rule 7-12, Plaintiff Environmental Protection Information  
3 Center, and Defendants Daniel Ashe, Jeff Underwood, and the U.S. Fish and Wildlife Service  
4 (“Federal Defendants”) hereby stipulate to and respectfully request that the Court amend the  
5 Court-ordered stay of the proceedings in this case related to the Federal Defendants (ECF No.  
6 42). This amendment is needed to account for the recent stipulation between Plaintiff and the  
7 State Defendants to amend the stay order pertaining to claims against the State Defendants (ECF  
8 No. 43), which was granted by the Court on February 3, 2014 (ECF No. 44).

9 Specifically, the stay orders previously entered in this case – one as to the State  
10 Defendants and one as to the Federal Defendants – contain language prohibiting the “collection,  
11 trapping, or use of natural-origin (ESA-listed) steelhead trout for broodstock at the Mad River  
12 Hatchery” by the California Department of Fish and Wildlife, as well as funding for such  
13 activities by the U.S. Fish and Wildlife Service. ECF No. 32, at 2; ECF No. 42, at 1. The recent  
14 amendment to the stay order for the State Defendants alters that language to require use of  
15 natural-origin steelhead trout by the California Department of Fish and Wildlife. ECF No. 44.  
16 Since the U.S. Fish and Wildlife Service funds activity at the Hatchery, a concurrent amendment  
17 is needed to the stay order between Plaintiff and the Federal Defendants, to allow the U.S. Fish  
18 and Wildlife Service to fund such activities.

19 Plaintiff and Federal Defendants therefore agree, and request that the Court modify its  
20 stay order dated July 24, 2013 (ECF No. 42) as follows:

- 21 1. The U.S. Fish and Wildlife Service may fund operations at the Mad River  
22 Hatchery to collect, trap, or use natural origin (Endangered Species Act-listed)  
23 steelhead trout for broodstock at the Mad River Hatchery, as set forth in  
24 paragraph 1 of the Court’s order dated February 3, 2014 (ECF No. 44).  
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- 1           2.     The stay of Plaintiff's claims against Federal Defendants shall be extended to  
2           November 30, 2014, or until the National Marine Fisheries Service approves a  
3           Hatchery Genetics Management Plan, whichever occurs first.  
4           3.     The remainder of the stay order dated July 24, 2013 (ECF No. 42) remains in  
5           effect.

6     Respectfully submitted this 25th day of February, 2014.

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8                                 ROBERT G. DREHER  
9                                 Acting Assistant Attorney General  
10                                U.S. Department of Justice  
11                                Environment & Natural Resources Division  
12                                SETH M. BARSKY, Chief  
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14                                /s/ Ethan Carson Eddy  
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Attorneys for Plaintiff

**E-FILING ATTESTATION**

Pursuant to Civil Local Rule 5.1(i)(3), I attest that Peter Frost has concurred in the filing of this document.

/s/ Ethan Carson Eddy  
ETHAN CARSON EDDY  
Counsel for Federal Defendants

**PROPOSED ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Plaintiff and Federal Defendants are further ORDERED to submit a joint case management statement by December 8, 2014, or within fourteen (14) days following approval of the State Defendants' HGMP, whichever comes first.

Dated: February 27, 2014

  
HON. MAXINE M. CHESNEY  
United States District Judge